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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,141	07/28/2005	Michael P. Flynn	60469-228; OT-5184	9948
64779	7590	10/26/2007	EXAMINER	
CARLSON GASKEY & OLDS			COLON SANTANA, EDUARDO	
400 W MAPLE STE 350			ART UNIT	PAPER NUMBER
BIRMINGHAM, MI 48009			2837	
MAIL DATE		DELIVERY MODE		
10/26/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/544,141	FLYNN ET AL.
	Examiner Eduardo Colon Santana	Art Unit 2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 10 and 11 is/are allowed.

6) Claim(s) 1-4, 8 and 9 is/are rejected.

7) Claim(s) 5-7 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 28 July 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/28/2005.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: Detailed Action.

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 7/28/2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show in figure 2 a control (42) as described in the specification in page 3. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The disclosure is objected to because of the following informalities: In page 3, lines 16 and 23 the reference label for the car should be "60".

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-4 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable and obvious over Tsai et al. U.S. Patent No. 4,570,755 in view of K.A. Oplinger U.S. Patent No. 2,874,806.

Referring to claims 1 and 9, Tsai et al. discloses an elevator system having a digital landing computer (see all figures and respective portions of the specification). Tsai et al. further depict from figure 1, an elevator car (5); a counterweight (11) and a rope (7) connecting the elevator car and the counterweight. In addition Tsai et al. describes a control system including a motor (29), and a speed control system associated with the car (5) and the counterweight (11) that controls movements of the car and counterweight under at least some conditions (see Abstract; Summary of the Invention; and Col. 4, lines 58-65; Col. 5, lines 44-59 and Col. 10, lines 64-68). However, Tsai et al. does not explicitly describe a drag element or drag controller. Nonetheless, Oplinger discloses an elevator control system including a magnetic drag regulator dependent upon the speed of the elevator car for improving starting and stopping an elevator car at a particular floor (see figures 4, 8, 11 and Col. 1, lines 34-47; Col. 2, lines 13-19, 32-39; Col. 8, lines 54-64). Since Tsai and Oplinger are in the same field of endeavor, the purpose disclosed by Oplinger would have been recognized in the pertinent art of Tsai et al. It would have been obvious to one of ordinary skill in the art to use a drag element or drag control as taught by Oplinger within the teaching of the speed control of Tsai for the advantages of providing a system which is easily adjustable to accommodate different operational requirements and be capable of handling a relatively wide range of speed and drag that would provide a smooth landing in every floor stop. In addition the claim would have been obvious because the techniques (drag,

speed and position) for improving a particular class of device (elevator system) was part of the ordinary capabilities of a person of ordinary skill in the art, in view of the teaching of the techniques for improvement in other situations (see applicant's admitted statement in page 4, lines 3-10 of the disclosure).

As to claims 2-4, Oplinger discloses using a magnetic drag regulator having a magnetizable member (237) which is guided along and associated for one of the elevator car (11) and counterweight (15), based upon the vertical position of the car and the counterweight (see figure 1).

Referring to claim 8, Oplinger and Tsai, discloses control systems for regulating (varying) speed and dragging in an elevator car and counterweight, the control system would obviously be design for other situations such as slip and end of travel sensing.

**Allowable Subject Matter**

5. Claims 10-11 are allowed.
6. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The following is a statement of reasons for the indication of allowable subject matter: In view of the limitations of the prior art does not disclose, teach or fairly suggest having a drag element or drag controller that controls drag based on height, as stated in claim 5 and step 3 in claim 10.

***Conclusion***

8. The prior art made of record in form 892 and not specifically relied upon is considered pertinent to applicant's disclosure to further show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo Colon Santana whose telephone number is (571) 272-2060. The examiner can normally be reached on Monday thru Thursday 6:30am - 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-2800 X.37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval system (PAIR). For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center at 866-217-9197. If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 or 571-272-1000.



Eduardo Colon Santana  
Patent Examiner  
Art Unit 2837

/ECS/  
October 17, 2007